

Message Text

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PAGE 01 STATE 118663
ORIGIN OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-07 L-03 /027 R

DRAFTED BY OPIC/GC ;RSTERN
APPROVED BY EB/IFD/ OIA;RJSMITH
EB/IFD/OIA:DHSTEBBING
NEA/PAB:MAUSTRIAN (INFO)
-----232327Z 013487 /75-70

P 232146Z MAY 77
FM SECSTATE WASHDC
TO AMEMBASSY KABUL PRIORITY

UNCLAS STATE 118663

FROM OPIC

E.O. 11652: N/A

TAGS: EINV

SUBJECT: KAJAKAI LOAN - DISPUTE BETWEEN FISCHBACH AND GOA

1. OPIC INFORMS THE EMBASSY THAT, UNDER FISCHBACH'S CONTRACT OF INSURANCE, A CLAIM IS PERFECTED IF THE HOST GOVERNMENT REFUSES FOR MORE THAN SIX MONTHS TO SUBMIT A DISPUTE TO ARBITRATION. ACCORDING TO FISCHBACH, ARBITRATION WAS PROPERLY REQUESTED ON MARCH 9, COMMENCING THE SIX-MONTH PERIOD. OPIC LEAVES IT TO THE EMBASSY'S DISCRETION AS TO WHETHER, WHEN AND HOW THIS INFORMATION MAY BE USED IN FURTHERING THE NEGOTIATIONS.

2. AS PREVIOUSLY NOTED, A VALID FISCHBACH CLAIM BASED ON FAILURE TO ARBITRATE WOULD ENTITLE FISCHBACH TO COMPENSATION OF FIFTY PERCENT OF THE AMOUNT CERTIFIED BY THE OWNER'S ENGINEER (IECO). SHOULD OPIC PAY SUCH A CLAIM, IT WOULD RECEIVE AN ASSIGNMENT OF FISCHBACH'S ENTIRE INTEREST
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IN THE DISPUTED CLAIM AND PURSUE COMPENSATION. ANY AMOUNT RECOVERED FROM THE GOA IN EXCESS OF THE AMOUNT PREVIOUSLY PAID TO FISCHBACH WOULD ALSO BE PAID TO FISCHBACH. IF AN ARBITRATION TAKES PLACE AND THE GOA FAILS TO HONOR ANY PART OF THE ARBITRAL AWARD, OPIC WOULD BE LIABLE FOR THE ENTIRE AMOUNT WITHHELD. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CLAIMS, DISPUTES, ARBITRATION, INVESTMENT GUARANTEES
Control Number: n/a
Copy: SINGLE
Sent Date: 23-May-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE118663
Document Source: CORE
Document Unique ID: 00
Drafter: GC ;RSTERN
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770183-1227
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770527/aaaaaxcz.tel
Line Count: 61
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 38a5bf8b-c288-dd11-92da-001cc4696bcc
Office: ORIGIN OPIC
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 23-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2402690
Secure: OPEN
Status: NATIVE
Subject: KAJAKAI LOAN - DISPUTE BETWEEN FISCHBACH AND GOA
TAGS: EINV, AF, OPIC
To: KABUL
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/38a5bf8b-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009